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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

TIFFANY LOTT, individually and
on behalf of all others similarly
situated.

Case No. 3:20-cv-02837

CLASS ACTION COMPLAINT

JURY TRIAL DEMAND

1

CREDIT KARMA, INC., a Delaware corporation,

Defendant.

1 Plaintiff Tiffany Lott (“Plaintiff” or “Lott”) brings this Class Action
2 Complaint and Demand for Jury Trial against Defendant Credit Karma, Inc. (“Credit
3 Karma” or “Defendant”) to stop Credit Karma from violating the Telephone
4 Consumer Protection Act by sending unsolicited autodialed text messages to
5 consumers who have expressly requested that Credit Karma stop texting them, and
6 to otherwise obtain injunctive and monetary relief for all persons injured by Credit
7 Karma’s conduct. Plaintiff, for this Complaint, allege as follows upon personal
8 knowledge as to herself and her own acts and experiences, and, as to all other
9 matters, upon information and belief, including investigation conducted by her
10 attorneys.

11 **PARTIES**

12 1. Plaintiff Lott is a South Carolina resident.

13 2. Defendant Credit Karma is a Delaware company headquartered in San
14 Francisco, California. Defendant conducts business throughout the United States
15 and California, including in this District.

16 **JURISDICTION AND VENUE**

17 3. This Court has federal question subject matter jurisdiction over this
18 action under 28 U.S.C. § 1331, as the action arises under the Telephone Consumer
19 Protection Act, 47 U.S.C. § 227 (“TCPA”).

20 4. This Court has personal jurisdiction over Defendant and venue is proper
21 in this District under 28 U.S.C. § 1391(b) because Defendant is headquartered in
22 and directed its TCPA violative text messages to Plaintiff from this District.

23 **PLAINTIFF’S ALLEGATIONS**

24 5. Credit Karma is a company that provides credit-related services,
25 including by providing consumers credit offers.

1 6. On March 17, 2020, Credit Karma sent Plaintiff three unsolicited text
2 messages from short code 837-401, stating “Your Credit Karma code is It
3 expires after 5 minutes.”

4 7. In response, Plaintiff texted “Stop,” and received a confirmation that
5 she would “receive no further messages from this service.”

6 8. Notwithstanding, on March 25, 2020, Credit Karma sent Plaintiff
7 another unsolicited text message from short code 837-401, stating “Your Credit
8 Karma code is It expires after 5 minutes.”

9 9. Plaintiff has never provided her consent to Credit Karma to send her
10 text messages using an automatic telephone dialing system or to otherwise contact
11 her.

12 10. Credit Karma’s unsolicited texts were a nuisance that aggravated
13 Plaintiff, wasted her time, invaded her privacy, diminished the value of the cellular
14 services she paid for, caused her to temporarily lose the use and enjoyment of her
15 phone, and caused wear and tear to her phone’s data, memory, software, hardware,
16 and battery components.

17 11. In sending the unsolicited text messages at issue, Credit Karma, or a
18 third party acting on its behalf, utilized an automatic telephone dialing system;
19 hardware and/or software with the capacity to store or produce cellular telephone
20 number to be called, using a random or sequential number generator, or to dial
21 telephone numbers from preloaded lists. This is evident from the circumstances
22 surrounding the text messages, including the text messages’ commercial and generic
23 content, that the text messages were unsolicited, that they were sent from a short
24 code, which is consistent with the use of an automatic telephone dialing system to
25 send text messages, and that a recipient can trigger an automatic response by
26 replying “Stop.”

1 12. On information and belief, Credit Karma, or a third-party acting on its
 2 behalf, sent substantively identical unsolicited text messages *en masse* to the cellular
 3 telephone numbers of thousands of consumers. This is evident from the text
 4 messages' commercial and generic content, that the text messages were unsolicited,
 5 and that they were sent using an automatic telephone dialing system.

6 13. In fact, other consumers have complained online regarding Credit
 7 Karma's unsolicited text messages:

8 “Just received a text stating a code from Credit Karma.”¹

9 “got a text with a credit karma verification code that I did not request”²

10 “Already told it to stop will not. Had to block number. Did not ask for
 11 anything from this number.”³

12 14. To the extent the text messages were sent on Credit Karma's behalf to
 13 consumers, Credit Karma provided the third-party access to its records, authorized
 14 use of its trade name, otherwise controlled the content of the messages, and knew
 15 of, but failed to stop, the sending of the text messages in violation of the TCPA.

16 15. Accordingly, Plaintiff brings this action pursuant to Federal Rules of
 17 Civil Procedure 23(b)(2) and 23(b)(3) on behalf of herself and all others similarly
 18 situated and seeks certification of the following Class:

19
 20 **ATDS Class:** All persons who, on or after four years prior to the filing
 21 of the initial complaint in this action through the date of class
 22 certification, (1) were sent a text message to their cellular telephone
 23 number by or on behalf of Credit Karma, except for a single text
 24 message confirming their opt out request, (2) using a dialing system
 25 substantially similar dialing system as used to text message Plaintiff,
 a prior text from Credit Karma.

26 ¹ <https://shortcodes.org/uncategorized/837401-short-code/>

27 ² *Id.*

28 ³ *Id.*

1 16. The following individuals are excluded from the Class: (1) any Judge
2 or Magistrate presiding over this action and members of their families; (2)
3 Defendant, its subsidiaries, parents, successors, predecessors, and any entity in
4 which Defendant or its parents have a controlling interest and their current or former
5 employees, officers and directors; (3) Plaintiff's attorneys; (4) persons who properly
6 execute and file a timely request for exclusion from the Class; (5) the legal
7 representatives, successors or assigns of any such excluded persons; and (6) persons
8 whose claims against Defendant have been fully and finally adjudicated and/or
9 released. Plaintiff anticipates the need to amend the class definition following
10 appropriate discovery.

11 17. **Numerosity:** The exact size of the Class is unknown and unavailable
12 to Plaintiff at this time, but it is clear that individual joinder is impracticable. On
13 information and belief, Defendant sent unsolicited text messages to thousands of
14 individuals who fall into the Class definition. Class membership can be easily
15 determined from Defendant's records.

16 18. **Typicality:** Plaintiff's claims are typical of the claims of the other
17 members of the Class. Plaintiff is a member of the Class, and if Defendant violated
18 the TCPA with respect to Plaintiff, then it violated the TCPA with respect to the
19 other members of the Class. Plaintiff and the Class sustained the same damages as
20 a result of Defendant's uniform wrongful conduct.

21 19. **Commonality and Predominance:** There are many questions of law
22 and fact common to the claims of Plaintiff and the Class, and those questions
23 predominate over any questions that may affect individual members of the Class.
24 Common questions for the Class include, but are not necessarily limited to the
25 following:

- 26 a) How Defendant gathered, compiled, or obtained the telephone
27 numbers of Plaintiff and the Class;

- 1 b) Whether the text messages were sent using an automatic
2 telephone dialing system;
- 3 c) Whether text messages were sent to consumers who had
4 previously opted out of receiving text messages from Defendant;
and
- 5 d) Whether Defendant's conduct was willful and knowing such that
6 Plaintiff and the Class are entitled to treble damages.

7 20. **Adequate Representation:** Plaintiff will fairly and adequately
8 represent and protect the interests of the Class and has retained counsel competent
9 and experienced in complex class actions. Plaintiff has no interest antagonistic to
10 those of the Class, and Defendant has no defenses unique to Plaintiff.

11 21. **Policies Generally Applicable to the Class:** This class action is
12 appropriate for certification because Defendant has acted or refused to act on
13 grounds generally applicable to the Class as a whole, thereby requiring the Court's
14 imposition of uniform relief to ensure compatible standards of conduct toward the
15 members of the Class, and making final injunctive relief appropriate with respect to
16 the Class as a whole. Defendant's practices challenged herein apply to and affect
17 the members of the Class uniformly, and Plaintiff's challenge of those practices
18 hinges on Defendant's conduct with respect to the Class as a whole, not on facts or
19 law applicable only to Plaintiff.

20 22. **Superiority:** This case is also appropriate for class certification
21 because class proceedings are superior to all other available methods for the fair and
22 efficient adjudication of this controversy given that joinder of all parties is
23 impracticable. The damages suffered by the individual members of the Class will
24 likely be relatively small, especially given the burden and expense of individual
25 prosecution of the complex litigation necessitated by Defendant's actions. Thus, it
26 would be virtually impossible for the individual members of the Class to obtain
27 effective relief from Defendant's misconduct. Even if members of the Class could

1 sustain such individual litigation, it would still not be preferable to a class action,
2 because individual litigation would increase the delay and expense to all parties due
3 to the complex legal and factual controversies presented in this case. By contrast, a
4 class action presents far fewer management difficulties and provides the benefits of
5 single adjudication, economy of scale, and comprehensive supervision by a single
6 court.

FIRST CAUSE OF ACTION

Violation of 47 U.S.C. § 227

(On Behalf of Plaintiff and the ATDS Class)

9 23. Plaintiff repeats and realleges the allegations of paragraphs 1 through
10 22 of this complaint and incorporates them by reference.

11 24. Defendant and/or its agents transmitted text messages to cellular
12 telephone numbers belonging to Plaintiff and the other members of the ATDS Class
13 using an automatic telephone dialing system.

14 25. These solicitation text messages were sent without the consent of
15 Plaintiff and the other members of the ATDS Class.

16 26. Defendant has, therefore, violated 47 U.S.C. § 227(b)(1)(A)(iii), and as
17 a result, under 47 U.S.C. §§ 227(b)(3)(B)-(C), Plaintiff and members of the ATDS
18 Class are entitled to a minimum of \$500 and a maximum \$1,500 in damages for
19 each violation.

PRAYER FOR RELIEF

21 **WHEREFORE**, Plaintiff Lott, individually and on behalf of the Class, prays
22 for the following relief:

23 a) An order certifying this case as a class action on behalf of the Class as
24 defined above, and appointing Plaintiff as the representative of the Class and her
25 counsel as Class Counsel;

b) An award of actual and/or statutory damages and costs;

- c) An order declaring that Defendant's actions, as set out above, violate the TCPA;
 - d) An injunction requiring Defendant to cease all unsolicited text messaging activity, and to otherwise protect the interests of the Class; and
 - e) Such further and other relief as the Court deems necessary.

JURY TRIAL DEMAND

Plaintiff requests a jury trial.

Respectfully Submitted,

TIFFANY LOTT, individually and on
behalf of those similarly situated individuals

Dated: April 24, 2020

/s/ Robert Ahdoot

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